

Rec'd 10/5/98 @ 3:00 p.m.
J. Jeter Dragg

ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION

In re Applications of:)	WT Docket No. 97-128
)	
MARTIN HOFFMAN)	
)	
Trustee-in-Bankruptcy for)	
Astroline Communications)	
Company Limited Partnership)	

Volume 4

Pages: 525 through 671
Place: Washington, D.C.
Date: September 29, 1998

HERITAGE REPORTING CORPORATION

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In Re Applications of:) WT: 97-128
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MARTIN HOFFMAN)
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Trustee-in-Bankruptcy for)
Astroline Communications)
Company Limited Partnership)

Courtroom 2
FCC Building
2000 L Street, N.W.
Washington, D.C.

Tuesday,
September 29, 1998

The parties met, pursuant to the notice of the
Judge, at 10:00 a.m.

BEFORE: HON. JOHN M. FRYSIAK
Administrative Law Judge

APPEARANCES:

For the Intervenor Richard P. Ramirez:

KATHRYN R. SCHMELTZER, ESQ.
Fisher Wayland Cooper Leader & Zaragoza LLP
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006-1851
(202) 775-3547

For the Federal Communications Commission:

CATHERINE M. WITHERS, ESQ.
JAMES W. SHOCK, ESQ.
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W.
Washington, D.C. 20554
(202) 418-1430

Heritage Reporting Corporation
(202) 628-4888

APPEARANCES (CONT.):

For Thomas A. Hart, Jr.:

EDWIN C. DARDEN, ESQ.
WARNER H. SESSION, ESQ.
Law Office of Warner H. Session, P.C.
1150 Connecticut Avenue, N.W.
Suite 900
Washington, D.C. 20036
(202) 862-4313

For Martin Hoffman,
Trustee in Bankruptcy

PETER D. O'CONNELL, ESQ.
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-3350

For Two If By Sea Broadcasting:

HOWARD A. TOPEL, ESQ.
Fleischman and Walsh, L.L.R.
1400 Sixteenth Street
Washington, D.C. 20036
(202) 939-7900

For Shurberg Broadcasting of Hartford:

HARRY F. COLE, ESQ.
Bechtel & Cole, Chartered
Suite 250
1901 L Street, N.W.
Washington, D.C. 20036
(202) 833-4190

I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Thomas A. Hart	531	653	660		

E X H I B I T S

	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
<u>Shurberg Exhibits:</u>			
35	prev.		669w/d
49	prev.		669w/d
69	prev.	561	
70	prev.	561	
76	prev.	592	
77	prev.	592	
78	prev.	592	
79	prev.	592	
80	prev.	592	
81	593	593	
87	prev.	647	
92	prev.	594	
93	prev.	548	
94	prev.	548	
95	prev.	548	
117	583	583	

	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
<u>Shurberg Exhibits:</u>			
118	583	583	
121	prev.		670w/d
134	prev.	648	
135	prev.	648	
143	prev.	667	
144	prev.		668w/d
145	prev.		668w/d
146	614		615/d

	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
<u>Ramirez TIBs Exhibits:</u>			
12	661	661	

Hearing Began: 10:00 a.m. Hearing Ended: 3:15 p.m.

1 P R O C E E D I N G S

2 JUDGE FRYSIAK: All right, we're on the record.
3 Preliminary matters?

4 MR. COLE: I think the only preliminary matter is
5 something Ms. Schmeltzer and I discussed briefly yesterday
6 and then we had a brief conversation this morning. I
7 believe yesterday I had indicated to her that I had only one
8 very brief question to ask Mr. Ramirez on re-cross and that
9 if she and the other parties were able to stipulate that the
10 Los Angeles law firm that Mr. Ramirez mentioned during his
11 testimony was, in fact, Thelan, Marin, Johnson & Bridges,
12 that I would have no need to call Mr. Ramirez back. And, I
13 believe Ms. Schmeltzer has indicated this morning that she
14 is able to stipulate to that?

15 MS. SCHMELTZER: Yes.

16 MR. COLE: I assume that would go as well for Mr.
17 O'Connell, Mr. Topel and does the Bureau have any objection
18 to that stipulation?

19 MS. WITHERS: No objection.

20 MR. COLE: Based on that stipulation, Your Honor,
21 that the Los Angeles law firm was Thelan, Marin, Johnson &
22 Bridges, I do not intend to call Mr. Ramirez back as a
23 witness. He can be excused.

24 JUDGE FRYSIAK: Okay, the stipulation is noted and
25 Mr. Ramirez is excused.

1 MS. SCHMELTZER: Thank you.

2 MR. COLE: Thank you, Your Honor. Other than
3 that, I have nothing further.

4 JUDGE FRYSIAK: All right. I'm ready to go any
5 time.

6 MR. COLE: We would call, Shurberg Broadcasting
7 would call Mr. Hart to the stand. Your Honor, as Mr. Bacon,
8 yesterday, I think the record should reflect that Mr. Hart
9 is represented. If we could take the appearance of his
10 counsel?

11 JUDGE FRYSIAK: Would you make your appearance?

12 MR. DARDEN: Good morning, Your Honor. I'm Edwin
13 Darden with the law firm of Warner Session and I'm
14 representing Mr. Hart.

15 JUDGE FRYSIAK: Thank you. Let me take your oath.
16 Whereupon,

17 THOMAS A. HART, JR.
18 having been first duly sworn, was called as a witness
19 herein, and was examined and testified as follows:

20 JUDGE FRYSIAK: Please have a seat.

21 THE WITNESS: Thank you.

22 JUDGE FRYSIAK: For the record, please state your
23 full name and address.

24 THE WITNESS: My name is Thomas A. Hart, Jr. My
25 resident address is 3165 18th Street, N.W., Washington, D.C.

1 JUDGE FRYSIAK: Thank you.

2 DIRECT EXAMINATION

3 BY MR. COLE:

4 Q Good morning, Mr. Hart. You and I obviously have
5 met before, particularly during deposition recently, but let
6 me introduce myself for the record. I'm Harry Cole, counsel
7 for Shurberg Broadcasting and let me start off by asking you
8 to confirm that you are appearing here pursuant to a
9 subpoena which was served on you by Shurberg Broadcasting in
10 this proceeding?

11 A I had agreed to participate in this hearing prior
12 to receiving the subpoena. I did receive the subpoena, but
13 I'm here voluntarily.

14 Q Mr. Hart, you're an attorney, aren't you?

15 A Yes, sir.

16 Q When were you admitted to practice?

17 A I was admitted to practice in 1980, '80 or '81. I
18 graduated from law school in '80. I think I was sworn in in
19 '81.

20 Q And, following your admission to the bar, did
21 there come a time when you were an attorney in the law firm
22 of Collier, Shannon, Rill & Scott?

23 A Yes, sir.

24 Q Do you recall the dates of that employment?

25 A After I finished an Appellate clerkship on the

1 Eighth Circuit Court of Appeals, I started at Collier,
2 Shannon, Rill & Scott in, I think, '80 -- late '81 or '82,
3 and then worked there until '85.

4 Q And, in '85, where did you go?

5 A I became a partner in the law firm of Baker &
6 Hostetler.

7 Q While you were at Collier, Shannon were you a
8 partner or an associate?

9 A I was an associate.

10 Q So, you moved in '85 from an associate position at
11 Collier, Shannon to a partner position at Baker & Hostetler,
12 is that correct?

13 A That's correct.

14 Q Do you recall when in '85 you moved to Baker &
15 Hostetler?

16 A March of '85.

17 Q My examination this morning will focus on the
18 period of time while you were at Collier, Shannon and Baker
19 & Hostetler. I understand you had a Judicial clerkship
20 before Collier, Shannon and worked at law firms subsequent
21 to Baker & Hostetler, but I'm focusing now just on the
22 period from approximately 1984 to 1988.

23 When did you leave Baker & Hostetler?

24 A I left Baker & Hostetler in 1988.

25 Q Would that have been October of '88?

1 A That's correct.

2 Q During your tenure at Collier, Shannon, did you
3 specialize in any particular area of practice?

4 A I started the telecommunications practice of the
5 firm, and that was my particular specialty area. Also did
6 work in the anti-trust area and in some general corporate
7 matters, as well, but my specialty has been and continues to
8 be communications or what's now called telecommunications
9 law.

10 Q That was the case with Baker & Hostetler, that is,
11 did you specialize in Baker & Hostetler, while you were at
12 Baker & Hostetler, in communications or in
13 telecommunications law?

14 A Yes, sir.

15 Q Now, there came a time, didn't there, Mr. Hart,
16 that you were engaged to represent the entity known as
17 Astroline Communications Company Limited Partnership?

18 A That is correct.

19 Q Just so you will know and for the sake of the
20 record, we've all adopted a policy of referring to that
21 entity, that is, Astroline Communications Company Limited
22 Partnership, by the shorthand of Astroline, or occasionally,
23 ACCLP. I believe the parties and the Court are aware that
24 there are other entities known as Astroline something --
25 Astroline Corporation, Astroline Company. To the extent

1 that we refer to any of those other entities, we try to
2 refer to the full name, that is, Astroline Corporation,
3 Astroline Company.

4 If we refer simply to Astroline, it is, I think,
5 understood by all concerned that we're referring to
6 Astroline Communications Company Limited Partnership. Do
7 you understand that?

8 A Yes.

9 Q If there's any question in your mind, please stop
10 me and we'll clarify it for the record. When did you
11 represent Astroline?

12 A Astroline Communications Company Limited
13 Partnership, I represented it at its inception.

14 Q When was it formed?

15 A I don't recall the precise date.

16 Q Let me refer you, Mr. Hart, to Shurberg Exhibit 2,
17 and that would be in the gray folder. I'll ask if that
18 refreshes your recollection. That is a copy of the
19 Astroline Communications Company Limited Partnership
20 agreement?

21 A Yes, sir.

22 Q Does that refresh your recollection as to when
23 Astroline was formed?

24 A This document bears the date of May 29, 1984. It
25 is entitled the limited partnership agreement for Astroline

1 Communications Company Limited Partnership and I have no
2 reason to doubt that that date is the date that the entity
3 was formed. That would be May of 1984.

4 Q And, after Astroline was formed, it file an
5 application for assignment of the license of Station WHCT-TV
6 in Hartford from Faith Center, Inc. to Astroline, do you
7 recall that?

8 A Yes.

9 Q Could you please refer to the blue volume? In
10 particular, I want to direct your attention to Shurberg 15.

11 A Yes.

12 Q Is that your signature on the first page of that
13 exhibit?

14 A Yes, sir. The cover letter dated June 28, 1984
15 bears my signature.

16 Q According to that cover letter, you were
17 transmitting to the FCC on that date, among other things, a
18 transfer assignment application (FCC Form 314), is that
19 correct?

20 A Yes.

21 Q You also note, I believe, that item number three
22 mentioned in that letter, in your cover letter, is a
23 Petition for Special Relief, do you see that?

24 A Yes.

25 Q Now, refer, if you would -- the page is further in

1 that exhibit, which begin on page 481, 000481. The first
2 page of that, 481, is the first page of a document entitled
3 Petition for Special Relief.

4 A I see it.

5 Q Could you review that?

6 A Yes.

7 Q Now, you did not sign this document, did you?

8 A The Petition for Special Relief?

9 Q That's correct.

10 A It bears the signature of Edward Mazury.

11 Q But, no signature for you?

12 A No, sir.

13 Q But, you assisted in the drafting of that, did you
14 not?

15 A Yes, I did.

16 Q Please refer to the red volume, Shurberg 66. The
17 first page of Shurberg 66 is a letter on Collier, Shannon,
18 Rill & Scott letterhead dated June 12, 1984 addressed to Mr.
19 Masry, with a signature block for you. Is that your
20 signature?

21 A Actually, it's not my signature. It was signed
22 with my authorization.

23 Q That which is transmitted with that letter is a
24 Petition for Special Relief, is that correct?

25 A Yes.

1 Q Is that your draft that you were sending Mr. Masry
2 for his review?

3 A Yes, sir. My understanding is that the petition
4 would have to be drafted by, signed by the seller and Faith
5 Center was the seller of the station.

6 Q So, that's why you were sending it to Mr. Masry as
7 Faith Center's counsel?

8 A That's correct.

9 Q For Faith Center to sign? The document which
10 you've looked at that is Shurberg 15, your June 28 letter to
11 the Secretary of the FCC, was not the first document you
12 filed with the FCC concerning Astroline's proposed
13 acquisition of WHCT, was it?

14 A I'm not sure.

15 Q I'm sorry, this is not a trick question. Let me
16 refer you to Shurberg 14.

17 A Okay.

18 Q That's a letter over your name, addressed to Judge
19 Frysiak, dated May 29, '84. That is your signature on page
20 three of that letter, isn't it?

21 A Yes, sir. It actually is not my signature, but it
22 was signed with my authorization and it does bear my name.

23 Q You knew, did you not, at the time that you filed
24 the May 29, 1984 letter, that there was a competing
25 application filed for Channel 18, is that correct?

1 A I believe I was aware of that at the time.

2 Q That competing application was the application of
3 Shurberg Broadcasting of Hartford?

4 A I'm not sure I knew who the individual or the
5 entity was at that time, at that particular time, I'm not
6 sure, sir. It was very early in the proceeding. I may not
7 have been aware of Mr. Shurberg at that time.

8 Q Do you recall when you first became aware of the
9 competing application of Shurberg?

10 A No, I'm not exactly sure. It was sometime around
11 then, but I'm not sure that I knew it in May of '84. I
12 don't think I was aware of it at that time. I may have
13 learned it shortly thereafter, but I'm not exactly sure.

14 Q The Astroline assignment application was granted
15 in early December of 1984, do you recall that?

16 A I'm sorry, sir?

17 Q The Astroline assignment application to acquire
18 WHCT was granted by the FCC in early December, 1984, do you
19 recall that?

20 A Yes.

21 Q At that time, Astroline began making preparations
22 to close the transaction, isn't that true?

23 A That is correct.

24 Q The plan was to close in January of 1985, wasn't
25 that correct?

1 A Yes, we were trying to close as soon as possible.

2 Q Let me show, you please, I want to refer you to
3 the red volume, Shurberg 67, which is a memorandum from
4 Carter Bacon to distribution list. The distribution list is
5 itemized at the bottom of page one of this document and your
6 name appears on it, and it is followed by a number of pages
7 which are lists of apparently items which needed to be
8 addressed in connection with closing of the WHCT
9 acquisition. Are you with me on that document?

10 A I am looking at the document. Yes, sir.

11 Q Who is Carter Bacon?

12 A Carter Bacon is an attorney that worked at the law
13 firm of Peabody & Brown. He provided legal services to
14 Astroline Communications Company Limited Partnership.

15 Q What kind of legal services did he provide to
16 Astroline?

17 A I would describe them as corporate in nature.

18 Q Was Mr. Bacon familiar with FCC rules, to your
19 knowledge?

20 A He was not an attorney that had practiced before
21 the FCC.

22 Q What was the division of responsibility between
23 you and Mr. Bacon, insofar as Astroline's legal affairs were
24 concerned?

25 A Well, as you described, and this document

1 reflects, there were certain responsibilities that I
2 undertook in conjunction with the closing and others that
3 Mr. Bacon and other colleagues undertook.

4 Q Refer, please, Mr. Hart, to the page which is
5 paginated 0000440 in this exhibit? Do you see down in the
6 lower right hand corner there's a Bates stamp number which
7 is 0000440? Are you with me on that page?

8 A Yes.

9 Q That's an itemized list entitled Regulatory
10 Matters Requiring Attention Prior to Closing. The fourth
11 item on that list is, "Prepare ownership reports, FCC Form
12 323 for Astroline Communications Company and Astroline
13 Company for filing 30 days after closing." Do you see that?

14 A Yes, sir.

15 Q The initials in the responsibility column are TAH
16 and CSB. Do you know who TAH was?

17 A Well, that was me.

18 Q Who is CSB?

19 A Mr. Bacon.

20 Q So, you and Mr. Bacon were going to split the
21 responsibilities with respect to preparation of the
22 ownership reports, is that a safe interpretation of that?

23 A There was a shared responsibility.

24 Q A shared responsibility. Mr. Hart, could you
25 please look in the blue volume at Shurberg 16, the first

1 page of which is a letter on Collier, Shannon letterhead
2 dated February 22, addressed to the Secretary of the FCC
3 over your name. Am I correct that that is not your
4 signature?

5 A That is not my signature, but it was signed
6 pursuant to my authorization.

7 Q Are the initials under the Jr., are those initials
8 TDH?

9 A I'm not sure. They may be TDH. I can't really
10 make them out.

11 Q But, this was a letter that you authorized to be
12 signed in your name with the FCC, is that correct?

13 A That is correct.

14 Q Is this the ownership report which was prepared by
15 you, subsequent to the closing on the Astroline acquisition
16 of WHCT?

17 A Yes, this was prepared while I was at the law firm
18 of Collier, Shannon, Rill & Scott and filed with the FCC.

19 Q Now, you stated that in March of 1995, you moved
20 to Baker & Hostetler from Collier, Shannon, am I recalling
21 correctly?

22 A Yes.

23 Q At that point, you took Astroline as a client to
24 Baker, is that correct?

25 A That is correct.

1 Q When you arrived at Baker, did you become the
2 billing partner for the Astroline account?

3 A Yes, sir.

4 Q What did it mean to be the billing partner?

5 A I was responsible for billing the client and
6 collection the fees from the client.

7 Q Did you supervise other attorneys working on the
8 Astroline account?

9 A In some capacities, I did.

10 Q Could you describe what those capacities were?

11 A It sort of evolved over a period of time. When I
12 first joined the firm, I was principally the client contact
13 at the firm and as the client became more familiar with
14 other areas in the firm and other lawyers in the firm, it
15 was not unusual for the client to have direct contact with
16 other people at the firm that were working on matters on
17 behalf of the client.

18 Q Would those matters have been communications
19 related or non-communications related?

20 A Both.

21 Q So, there would have been matters that were
22 communications related that you did not supervise?

23 A There could have been. There probably was, and if
24 I did supervise them, the level of supervision may have
25 varied, depending on the matter.

1 Q Could you name some of the other attorneys who
2 worked at Baker & Hostetler on Astroline Communication's
3 matters?

4 A There was -- one of the reasons I came to Baker &
5 Hostetler and left Collier, Shannon was that Baker had an
6 established communications practice. It was a much larger
7 firm, had more expertise in the area of communications and
8 we had, in effect, a communications team of attorney. Those
9 attorneys included, but were not limited to, people by the
10 names of Greg Skall, Ed Hayes, Don Zeifang, Jack Whitley,
11 Dale Harburg, Linda Bocchi --

12 Q Dan Alpert?

13 A Dan Alpert.

14 Q Dave Dudley?

15 A Yeah, I'm not sure Dave was in the communications
16 group. He may have been.

17 In addition to telecommunications, of course,
18 Baker & Hostetler had a number of other discipline areas, or
19 specialty areas within the firm and I believe David may have
20 sort of spread his time in more than one area, but I'm not
21 sure.

22 It's a large Washington office of over 100
23 attorneys and we had a significant telecommunications group.

24 Q Lee Simowitz worked on Astroline, did he not?

25 A Lee Simowitz worked on Astroline, but he was not a

1 communications lawyer, per se, and those were some of the
2 areas in which non-communications attorneys would also work
3 on Astroline matters, depending on the matter and the need
4 of the client.

5 Q What was Mr. Simowitz' specialty?

6 A Mr. Simowitz was a litigation specialist and he
7 worked in that area for the firm, particularly in appellate
8 work.

9 Q Am I correct that he was the primary attorney on
10 Astroline's participating in the Shurberg appeal?

11 A In the appeal at the Court of Appeals, Mr.
12 Simowitz took a lead role in drafting that pleading, as well
13 as arguing that case at the D.C. Circuit Court.

14 Q Mr. Simowitz also drafted the Supreme Court
15 papers, did he not?

16 A Yes, he did. He did not argue that case, but he
17 did help prepare the brief.

18 Q Going back to a question I asked a couple of
19 moments ago concerning your role as billing attorney, as the
20 billing partner with respect to Astroline, did you review
21 all bills that were sent out to Astroline by Baker &
22 Hostetler?

23 A To an extent, yes. I prepared the bills, reviewed
24 them, dispatched them and assisted in the collection of
25 those bills or invoices.

1 Q Who prepared the actual verbiage of the bills, if
2 you can recall?

3 A Well, oftentimes, they were prepared by the
4 individual attorneys that were working on the matter. Their
5 time sheets would be condensed into a bill and then I would
6 review the condensed or the summary of that. But, that's
7 why I'm saying, in certain instances, there was language in
8 a bill or the absence of language in a bill that I would not
9 have written or omitted myself.

10 Q Let me just, so we're not speaking in a vacuum,
11 let me refer you to the white album, Exhibit 93, which is a
12 Baker & Hostetler bill dated July 27, '87 to Astroline. Do
13 you have that in front of you?

14 A You said 97?

15 Q Ninety-three, I'm sorry, 93, dated July 27, '87.

16 A Yes, sir.

17 Q Take a minute and look at that, if you would,
18 please, Mr. Hart. I should also preface my remarks by
19 saying there is handwriting or handwritten notations on page
20 two and I'm not interested in those. Those, as far as I'm
21 concerned, are immaterial to my examination this morning.
22 I'm just concerned about the type of verbiage on there.

23 First, this is a Baker & Hostetler bill sent to
24 Astroline, would you agree with that?

25 A Yes, sent to Rich Ramirez' attention at the

1 Hartford address.

2 Q I see that. And, I'm looking at the FCC
3 Matter/General heading and the language underneath that. My
4 question is, that verbiage, is that the verbiage that you
5 testified derived from the time sheets of the individual
6 attorneys or is that verbiage which you prepared in some
7 other fashion?

8 A It appears to be the type of a bill that would
9 come from a summary of a time sheet, but it would not be
10 uncommon for me to, in addition to evaluating or reviewing
11 the time sheets, to either delete some references that were
12 on the time sheet or to add additional things that I or
13 another person at the law firm did that may not have been
14 accurately reflected in the time sheet.

15 Q But, in any event, this, to your best
16 recollection, was an accurate reflection of the work that
17 had been performed by Baker & Hostetler attorneys on behalf
18 of Astroline during the time period reflected on the bill?

19 A It is a bill to Astroline during that period of
20 time, and it reflects the summary of the professional
21 services rendered.

22 Q Could you look at 94, as well, and also 95?
23 Ninety-three, 94 and 95 are each Baker bills for the periods
24 covering the periods June, July and August of 1987.

25 A Okay.

1 Q Am I correct that 94 is also a Baker & Hostetler
2 bill that was sent to Astroline for that, covering the
3 services provided in July of 1987?

4 A Ninety-four?

5 Q Shurberg 94?

6 A Yes, it seems to, yes.

7 Q And, this would have been prepared in the same
8 manner that you just described with respect to 93, that is,
9 you reviewed time sheets and possibly edited some to include
10 or delete some references in the interest of accuracy, and
11 then put it in final and send it out, is that a fair
12 statement?

13 A That is correct.

14 Q Would you testify the same with respect to
15 Shurberg 95, which is the next month's bill?

16 A Yes, sir.

17 MR. COLE: Your Honor, I deferred moving those
18 into evidence and, based on Mr. Hart's testimony, I'll offer
19 93, 94 and 95.

20 MR. TOPEL: No objection, Your Honor. I'll be the
21 spokesperson for the Ramirez TIBs trustee group in today's
22 session.

23 JUDGE FRYSIK: All right, 93, 94 and 95 are
24 received.

25 //

1 (The documents referred to,
2 having been previously marked
3 for identification as Shurberg
4 Exhibits 93, 94 and 95, were
5 received in evidence.)

6 MR. COLE: Thank you, Your Honor. Mr. Topel, it's
7 nice to see you this morning -- nice to hear you this
8 morning.

9 MR. TOPEL: Contrary to -- I'm not a potted plant.

10 MR. COLE: Let the record also reflect Mr. Schutz
11 appearance with us today.

12 BY MR. COLE:

13 Q Mr. Hart, could you please refer in the red volume
14 to Shurberg 68? This is a two-page letter sent to you by
15 Mr. Bacon. Do you recall receiving that letter?

16 A I don't have a contemporaneous recollection of
17 receiving it. I have had an opportunity to review it. I
18 think it may have come up in conjunction, at the deposition.
19 I am now familiar with it. I don't honestly have a
20 recollection of receiving it at that time, but, you know, it
21 was sent to me. I have no reason to believe I didn't
22 receive it.

23 Q And, in his letter to you, Mr. Bacon provides a
24 number of comments concerning the ownership report, which we
25 just looked at, as Shurberg 16, is that a fair statement?

1 A Yes.

2 Q Was it usual for Mr. Bacon to become involved to
3 this degree in regulatory matters involving materials filed
4 with the FCC by Astroline?

5 A We worked together on it, as you earlier noted or
6 called my attention to the fact that it was some shared
7 responsibility and Mr. Bacon undertook that responsibility
8 along with me. So, it was not unusual for him to be
9 involved in the preparation of an ownership report.

10 Q Was he, in effect, co-counsel with you on these
11 matters?

12 A I don't know. I wouldn't necessarily want to
13 characterize his status as co-counsel. He was counsel in
14 various corporate matters, and I was counsel before the FCC.
15 I don't think it's necessary for me to characterize it
16 specifically in that fashion.

17 Q In any event, let me refer you to the blue volume,
18 Shurberg 17, which is a letter over your name, dated May 16,
19 '85, addressed to the Secretary of the FCC, which is
20 accompanied by what appears to be an ownership report. I'd
21 ask you to take a look at that?

22 A May 16, 1985, Shurberg Exhibit 17?

23 Q Yes.

24 A Yes, sir.

25 Q Is that your signature on page two of this letter?

1 A Yes, it is.

2 Q Is it accurate to conclude that you filed this
3 letter and the accompany ownership report in response or
4 reaction to Mr. Bacon's letter to you, which we just looked
5 at at Shurberg 68?

6 A I think it was done as a supplement to the other
7 report. I don't think it, you know, was precipitated solely
8 by Mr. Bacon's letter. I think there were a number of
9 factors that may have played into why this supplemental
10 report was filed.

11 Q What were those other factors?

12 A I think we just needed to set out the ownership of
13 Astroline Communications Company Limited Partnership a
14 little more clearly and that's why we filed this supplement.

15 Q Were you concerned that there may have been some
16 inaccuracies in the report as originally filed, which you
17 needed to correct?

18 A No. I just feel that maybe it was important to
19 clarify some things. I don't have a clear recollection of
20 what issues needed clarification, but it was decided that we
21 would file a supplement, and we did.

22 Q I'm assuming the purpose of this was to assure an
23 accurate record before the FCC of Astroline's ownership,
24 isn't that correct?

25 A Well, to set forth the composition and structure

1 of the licensee more clearly than it had been previously.

2 Q Now, Mr. Hart, on the third page of this exhibit,
3 which is the first page of the ownership report, down in the
4 lower right hand corner, the pagination would be BH0003, do
5 you see that?

6 A Yes.

7 Q There is no signature on the copy that we located
8 in the files at Baker & Hostetler. Do you recall whether
9 this report was filed this way, that is, unexecuted, when
10 you filed it with the Commission in May of '85?

11 A No, sir, I'm not sure. I don't have a clear
12 recollection of it. I would be surprised if it was. I'm
13 sure our procedures would have been to get a signature, but
14 I'm not sure how this particular document was filed. I just
15 don't know.

16 MR. TOPEL: Your Honor, I wonder if Mr. Cole could
17 state for the record whether he is certain that this
18 particular document is the one that was attached to the
19 letter that got the FCC stamp, because there were scores of
20 ownership reports in the documents that were produced.
21 There's no FCC stamp on page BH0003, and I just, I want to
22 know whether we're certain or not that this was the right
23 attachment.

24 Because, I think there is in the record another
25 copy that is signed on that date.

1 MR. COLE: Let me address these things in order.
2 First, I can only state that this is the way I found it in
3 the Baker & Hostetler files. I believe it was stapled
4 together in the Baker & Hostetler files, but I can't 100
5 percent guarantee that. And, what I did was, I reviewed
6 documents at Baker & Hostetler, then provided Baker &
7 Hostetler with a list of what I would like reproduced. They
8 then sent this over to me. That's where the numbers came
9 in. So, that's the reason that I'm reasonably confident
10 that it appeared this way in their files.

11 A far as the document that Mr. Topel is referring
12 to, which does bear a signature, I believe he's referring to
13 Joint Exhibit 2, Appendix D, and I believe it's pages 57 to
14 64.

15 MR. TOPEL: What was the reference, again?

16 MR. COLE: Joint Exhibit 2, Appendix D, pages 57
17 to 64.

18 (Multiple voices.)

19 MR. COLE: Is that what you're referring to, Mr.
20 Topel?

21 MR. TOPEL: No, I thought I might have seen it in
22 your set, as well. I'm not sure. But, where are we, Tab D?

23 MR. COLE: Tab D.

24 MR. TOPEL: Page 64?

25 MR. COLE: I'm sorry, page 57, page 57 to 64.

1 MR. TOPEL: I think so, because I haven't compared
2 this to --

3 MR. COLE: An ownership report which is signed by
4 Mr. Ramirez or appears to bear his signature. In response
5 to Mr. Topel's tacit question as to whether or not this is
6 the one that could have been included with the May 16 letter
7 from Mr. Hart, I would certainly observe that Mr. Hart's
8 letter was filed with the Commission, according to the
9 received stamp, on May 16, and Mr. Ramirez' signature is
10 dated May 29. So, I suspect that's one reason why it was
11 not.

12 Also, as a number of witnesses, including Mr.
13 Ramirez, have pointed out, in the block which is about
14 three-quarters of the way down in the right hand column on
15 page one, where the ownership or interests are set forth
16 there, it's described as Astroline Company shown being a
17 general partner. Whereas, in the company that's affixed to
18 Mr. Hart's letter in the Baker & Hostetler files, it is
19 shown as a limited partner.

20 I'm assuming again, in the interest of accuracy in
21 their filings before the Commission, Astroline would have
22 preferred Mr. Hart's version to the version that was
23 apparently signed by Mr. Ramirez.

24 BY MR. COLE:

25 Q Mr. Hart, as long as the issue has been raised, do

1 you recall why it would be that you would have filed an
2 ownership report on May 16, and then Mr. Ramirez would have
3 signed one a week and a half later?

4 A No, I don't. I don't have a recollection of the
5 sequence of those dates and events.

6 Q Just as a practical matter, when Astroline was
7 required to file a document, and let's just take an
8 ownership report as an example, how would that have been
9 prepared?

10 A Well, we -- at that point, I was at Baker &
11 Hostetler and Baker & Hostetler, again, had a team of
12 attorneys and even within the telecommunications or
13 communications section, we had people that specialized in
14 certain aspects of the industry. Particularly with regard
15 to the ownership reports, they were most often handled by
16 people that had done a number of them. And, those people
17 would be people like Jack Whitley was involved in a lot of
18 ownership reports for a lot of broadcast clients. So, he
19 probably worked on the preparation of this ownership report,
20 as well as others.

21 Dale Harburg, I'm not sure if Dale was at the firm
22 at that time or not. She may have been involved in this
23 one.

24 There were people that had more experience in
25 preparing ownership reports, and those people often were

1 involved in the preparation of documents like that.

2 Q And, how would they get the information they
3 needed inserted into the documents?

4 A They would either speak directly -- they would
5 speak directly with the client. I may have provided them
6 with an introduction to the client. I also may have
7 provided them with some background information that would
8 then find its way into the document, the actual ownership
9 report.

10 They would probably have available to them the
11 previous ownership report. That would be the basis for the
12 revision or modification.

13 Q Using all those sources, they would then prepare a
14 draft? Would they provide it to you for review first?

15 A Probably not first. I would probably get it last,
16 rather than first. They would probably prepare it with the
17 client, possibly even in this instance involve Mr. Bacon,
18 and then I would be involved at some point at the end of the
19 process or during the course of the process.

20 Q Is it accurate to say that when the legal team,
21 that is, the ownership report experts, yourself and Mr.
22 Bacon, were in accord, that it was an accurate report?
23 Would it then be provided to the client for the client's
24 review and signature?

25 A Well, I think in many instances the client would

1 be involved in it fairly earlier, early on, maybe involved
2 during the process itself, rather than just presented to
3 them at the end.

4 Q No, I understand that, but what I'm saying is that
5 once all sources had their input, that is, client, yourself,
6 Mr. Bacon, ownership report experts, and a document had been
7 drafted that passed muster with you and with Mr. Bacon, then
8 that document was provided to the client for its final
9 review and signature, is that correct?

10 A I can't really give you an absolute yes or no for
11 that sequence at each time. It was a collective effort of
12 those four groups or individuals. The expert team, the
13 client, Mr. Bacon and myself. And, frankly, in certain
14 instances, my participation might be the most limited of all
15 four. In other instances, like in the very beginning, when
16 the first ownership report went in, I was more involved in
17 that one, because, of course, at that time I was at Collier,
18 Shannon and I was pretty much the only telecommunications
19 person at Collier.

20 As it evolved, as the client got more comfortable
21 with people at the firm, my particular involvement
22 diminished. I was involved in other things.

23 Q Just to finish up the following process, once the
24 report had been signed by the client, am I correct that the
25 client would then send it to Baker & Hostetler for filing

1 with the Commission?

2 A Yes, generally speaking, we would make the filing
3 from Baker & Hostetler rather than, say, Peabody & Brown up
4 in Boston making the filing. We would handle the Washington
5 filing out of the Washington office of Baker & Hostetler.

6 Q In connection with that as kind of a follow up, is
7 it also accurate, when Baker & Hostetler filed something
8 with the Commission, Baker & Hostetler would obtain a
9 stamped received copy from the FCC?

10 A That was the general practice, yes, sir.

11 Q Then, also, at the same time, Baker & Hostetler
12 would provide a copy of the completed filing to the client
13 for its files?

14 A That was also the general procedure.

15 Q Now, during 1985, do you recall that the Shurberg
16 appeal was underway?

17 A Yes.

18 Q And, when I refer to the Shurberg appeal, just so
19 we're all, we're reading off the same page, I'm referring to
20 a case entitled Shurberg Broadcasting of Hartford v. FCC,
21 case no. 84-1600, which was filed with the U.S. Court of
22 Appeals in the District of Columbia Circuit in early
23 December of 1984. That's the case you and I are talking
24 about when we refer to Shurberg, is that correct?

25 A Yes. I'm not sure of the dates, but, yeah, I'm

1 familiar with that case and that's the case we're talking
2 about when we say, "on appeal."

3 Q Astroline was an intervenor in that case, was it
4 not?

5 A Yes, it was.

6 Q Baker & Hostetler prepared Astroline's intervenor
7 brief in that case, is that correct?

8 A That is correct.

9 Q Were you the principal attorney involved in the
10 preparation of that brief?

11 A I was involved in it with, as you reflected
12 earlier, Lee Simowitz and probably an associate or two was
13 involved in that, as well. But, I did have Appellate Court
14 experience, having clerked, and so I was involved in that
15 appeal.

16 Q Turn if you could, please, Mr. Hart, in the red
17 volume, to Shurberg Exhibit 69? The first page is a letter
18 over your name to Mr. Ramirez, transmitting to him, among
19 other things, a draft of Astroline's intervenor brief. Do
20 you see where we are?

21 A Yes, sir.

22 Q Could you look and confirm for me, please, that
23 the enclosure beginning on page BH1210 was, in fact, a draft
24 of the Astroline intervenor brief that you were sending to
25 Mr. Ramirez?

1 A That's correct.

2 Q Was this a usual thing to send to Mr. Ramirez,
3 that is, a draft of a brief?

4 A Yes. Mr. Ramirez was a hands on manager, hands on
5 general partner. He took a very active role in oversight of
6 all aspects of the station's operations and particularly was
7 involved in the development of the documents and other
8 related materials involving the Shurberg litigation. It was
9 very important to him and the station that we succeeded in
10 this effort and he was very much involved in an oversight
11 way of the activities that we were doing at that time.

12 I was in touch with him regularly and he was a
13 hands on guy.

14 Q Is that your signature on the bottom of the first
15 page of Shurberg Exhibit 69?

16 A Yes, sir.

17 Q Did you send him any other drafts of the brief?

18 A I'm not sure. It is likely that he was involved
19 and received more than one draft. I'm sure we talked about
20 it regularly. Again, he was active in almost all
21 significant matters involving the station.

22 Q When you and I are referring to he at this point,
23 in this last colloquy, we're referring to Mr. Ramirez, is
24 that correct?

25 A Richard Ramirez, as the general manager of the

1 station and the general partner of Astroline Communications
2 Company LP.

3 Q Now, if you could turn to Shurberg 70, which is
4 another letter over your name, dated May 24, 1985, addressed
5 to Mr. Lance and Mr. Oland, in which, on its face, before
6 its due, transmits those gentleman a draft of the Astroline
7 Intervenor brief in the Shurberg appeal. Is that your
8 signature on the bottom of the first page of 70?

9 A Yes.

10 Q Could you doublecheck, please, and confirm that
11 the attachment that's included here with this exhibit
12 appears to be a draft of the Astroline brief in the Shurberg
13 litigation?

14 A Yes, it is.

15 Q I notice that a cc with enclosure is indicated at
16 the bottom to Mr. Sostek. Who is Mr. Sostek?

17 A Mr. Sostek was an owner of Astroline Company,
18 which was a limited partner in the enterprise of Astroline
19 Communications Company Limited Partnership.

20 Q Did you send him drafts as well, besides this
21 draft?

22 A No, I don't think so. I think that this was
23 almost the final draft. As you can see, this draft appears
24 to be a later draft than the one that we sent Rich, Richard
25 Ramirez, earlier, and consequently, this would have been a

1 more final draft. Mr. Sostek was not as involved in the
2 process. We may have sent him this draft as a courtesy,
3 just to let him know that we were finalizing the brief at
4 that point and we sent him a courtesy copy. But, he was not
5 nearly as involved in the process as Mr. Ramirez was.

6 And, I think we sent it to Walter Stringfellow,
7 also, just as a courtesy. This is a lawyer that worked in
8 California. We just, you know, sent him a copy as well, but
9 he wasn't very involved in the process.

10 Q Was Mr. Stringfellow an attorney with the law firm
11 of Thelan, Marin, Johnson & Bridges?

12 A Yes, at that time, I think he was.

13 MR. COLE: Your Honor, I previously withheld offer
14 of Shurberg 69 and 70, but based on Mr. Hart's testimony
15 this morning, I'd like to offer both 69 and 70 at this time.

16 MR. TOPEL: No objection.

17 JUDGE FRYSIK: Received.

18 (The documents referred to,
19 having been previously marked
20 for identification as Shurberg
21 Exhibits 69 and 70, were
22 received in evidence.)

23 MR. COLE: Thank you, Your Honor.

24 BY MR. COLE:

25 Q Mr. Hart, by September of 1985, now, again, just

1 to orient you chronologically, Astroline was formed, I
2 believe we established earlier on, on May 29, 1984. By
3 September of '85, the membership of Astroline had changed,
4 hadn't it?

5 A See, that's where I'm not sure.

6 Q Let me refer you then, to see if we can refresh
7 your recollection, to Shurberg Exhibit 7, which is a
8 document entitled First Certificate of Amendment to
9 Astroline Communications Company Limited Partnership
10 Agreement and Certificate of Limited Partnership. I'll ask
11 you if that refreshes your recollection as to whether or
12 not, as of September of 1985, the membership of Astroline
13 had changed?

14 A Okay, yes, it apparently had changed.

15 Q And, as of the date of this document, which I
16 believe on page two is indicated as September 10, 1985,
17 there were a total of ten partners, three generals and seven
18 limiteds, would you agree with me on that?

19 A Yes, sir.

20 Q You were one of the general partners, is that
21 correct?

22 A I signed this amendment to the limited partnership
23 agreement and I signed it in the auspices as a general
24 partner.

25 Q So, you were a general partner, is that correct?

1 A Well, there's, you know, some confusion in my mind
2 because I'm not sure that I actually paid for my limited
3 partner, I mean, my general partnership interests. But, for
4 the purposes of this proceeding and this discussion this
5 morning, I would say that I was a general partner for a
6 period of time. For about 18 months, I guess.

7 Q That commenced on or about September 10, 1985,
8 with that document that you have in front of you?

9 A That's correct.

10 Q Let me also refer you to the blue volume, please,
11 to Shurberg 19. Before you start looking at that, or you
12 can certainly feel free to look at that, the question I have
13 is, did your assuming a general partnership interest in
14 Astroline in September of '85 require prior FCC approval, to
15 the best of your knowledge?

16 A No, I don't think it required FCC approval.

17 Q In any event, you didn't seek any FCC approval for
18 it, did you?

19 A I don't think so. The control didn't change in
20 any way.

21 Q Okay, that's fine. Once the partnership
22 membership had changed, though, am I correct that it was
23 necessary to advise the FCC of the new partners?

24 A I believe that a subsequent ownership report was
25 filed.

1 Q But, you were required to file an ownership
2 report, weren't you?

3 A I'm not sure whether it was required or done out
4 of an abundance of caution, in an effort to just be fully
5 forthcoming in making a disclosure.

6 Q Now, let's go to the blue volume, Shurberg 19. Am
7 I correct that that is an ownership report which was filed
8 with the Commission on September 13, '85 by Mr. Whitley?

9 A Mr. Whitley, yes. He was -- apparently he filed
10 this. It was filed with the FCC. There's a stamp on
11 September 16. I'm not exactly sure, you know, what Mr.
12 Whitley did, but it was filed, yes.

13 Q Just by way of correction, Mr. Hart, I believe the
14 September 16 stamp you're referring to is from the Audio-
15 Services Division. If you look over slightly to the right
16 of that, there is a "Received September 13, 1985 FCC
17 Secretary."

18 A You're correct, it seems to have been filed on
19 September 13.

20 Q The September 13 date conforms or is consistent
21 with the September 13 typed date for the letter, isn't that
22 right?

23 A That's correct.

24 Q Now, Mr. Whitley was part of the ownership report
25 team of experts? Is he the same one you were talking about

1 earlier on this morning?

2 A Yeah, I mean, he was involved in the preparation
3 of a number of ownership reports while at Baker & Hostetler.

4 Q Again, going back to the preparation or how Mr.
5 Whitley prepared this, could you please refer in the red
6 volume to Shurberg 71? It's a letter from Mr. Bacon to you,
7 dated September 11, 1985, that is, two days before Mr.
8 Whitley's report was filed. Am I correct, sir, that this
9 letter is consistent with what you have previously
10 testified, that is, that Mr. Whitley would reach out for
11 information from various sources, including, in this
12 instance, Mr. Bacon, for the information to be inserted in
13 the report?

14 A Yes, sir.

15 Q Page two of Mr. Bacon's letter, next to the last
16 paragraph, he indicates that he understood that you will
17 file an ownership report with the FCC regarding the above
18 transfers, in accordance with applicable requirements by
19 Friday, September 13 at the latest. Do you know how Mr.
20 Bacon came to understand that the requirements were that a
21 report had to be filed by Friday, September 13?

22 A No, I don't.

23 Q Do you recall whether you told him that?

24 A I don't recall. He was in touch with me during
25 that period of time. He was also in touch with Mr. Whitley

1 and others at the law firm. I'm not sure how he arrived at
2 that particular piece of information.

3 Q In any event, as we see in Shurberg 19 in the blue
4 volume, an ownership report was filed on September 13, 1985.
5 Am I correct that the purpose of this report was to report
6 the change in partners that we've just been discussing, the
7 September '85 change partners?

8 A Yes, it made that disclosure and I'm not sure if
9 that was the only thing it disclosed, but apparently, it did
10 disclose the introduction of some new principles, some of
11 which were a racial minority group of which, let the record
12 reflect, I am African-American. So, in view of the other
13 people that came into the organization at that time, were
14 members of racial minority groups. And, that was part of
15 what Astroline Communications Company Limited Partnership
16 was committed to from its inception and this transfer of
17 additional minority interests was consistent with that
18 commitment, to enhance minority ownership in broadcast
19 media.

20 We got our shares from WHCT Management, Inc.,
21 which was set up, in part, as a vehicle for minorities to
22 acquire additional ownership in the actual station.

23 Q WHCT Management, Inc. was a general partner,
24 wasn't it?

25 A I believe it was, yes, sir.

1 Q And, Danielle Webb was a minority, is that
2 correct?

3 A Danielle Webb was a minority, yes.

4 Q And, Terry Planell was a minority, was she not?

5 A Yes.

6 Q They acquired limited partnership interest, didn't
7 they?

8 A Yes, they did.

9 Q Why, then, was WHCT Management, Inc. a general
10 partner if the minority interests which it doled out were
11 for limited partnership interests?

12 A Well, I think at that time, it was important that
13 all station staff members that received ownership interest
14 other than Rich Ramirez be reflected as limited partners, so
15 it would always be clear that Rich Ramirez was the sole
16 person on staff running the station. Terry Planell and
17 Danielle Webb were staff members working full time at the
18 station.

19 And, I think it was important to make clear the
20 line of authority within station operations always rested
21 with Richard Ramirez. He was the man in charge of the
22 station from the beginning, and they didn't want to create
23 any confusion about that with some of his subordinates at
24 the station, that also had an ownership interest, being in
25 anyway confused about their role as a subordinate to Richard

1 Ramirez as the general manager. So, it was, I think, set up
2 that way.

3 Q So, was I correct in understanding that last
4 statement to mean that if Ms. Planell or Ms. Webb or any
5 other person had owned a general partnership interest, they
6 would have been perceived as having authority to operate the
7 station, but since they owned only a limited partnership
8 interest, they were not so perceived?

9 A No, not necessarily. I'm saying that people that
10 worked at the station, people that worked full time at the
11 station like Ms. Webb and Ms. Planell, were designated as
12 limited partners rather than somebody else that didn't work
13 at the station, like myself, that had a 1 percent general
14 partnership interest. There was no question that I wasn't
15 going to be involved in running the station. I wasn't
16 experienced, I didn't live in Hartford, I wasn't somebody
17 that was working there at the station.

18 And, so, it was clear that Richard Ramirez, as the
19 general manager of the station, and the largest general
20 partner shareholder at the station was always in charge and
21 always running the operation of the station.

22 Q Well, all this is very interesting, Mr. Hart, but
23 my original question, which got us off on this detour, was
24 not that. My original question was the following. Why, if
25 the interests which he was going to dole out were going to

1 be limited partnership interests, why was it necessary for
2 WHCT Management, Inc. to be a general partner?

3 A I don't know the specific question of that. I
4 know that WHCT Management, Inc. was a general partner and we
5 were not clear of how the general partnership or other
6 ownership interest in WHCT Management, Inc. would be awarded
7 to other minorities that got involved with the station, and
8 that's why we sort of reserved those shares of WHCT
9 Management, Inc. for the purpose of increasing minority
10 ownership, should the occasion arise in the future.

11 Q I am correct, am I not, that the purpose of the
12 notion of providing for shares to be provided to future
13 employees was intended to maximize minority ownership of
14 Astroline, is that correct?

15 A Just show additional ownership by minorities. Not
16 necessarily the term maximize, I'm not sure. But, it was
17 certainly an interest to increase the level of minority
18 ownership.

19 Q Well, if that was the goal, Mr. Hart, why, then,
20 didn't Mr. Ramirez own all 30 percent of the general
21 partnership shares from the beginning and then dole out
22 minority interests from his share?

23 A I don't know why an alternative approach was
24 taken. Rich Ramirez felt very comfortable with the
25 structure that was created, as did everybody involved. It

1 was clear that Rich Ramirez held at least 20 percent or 21
2 percent, I believe, as a general partner at all times. And,
3 his equity was held at that level throughout the enterprise.

4 Q But, you don't know why he couldn't have owned 30
5 percent --

6 A He could have owned --

7 Q -- that is, all 100 percent of the voting
8 interest, of the general partnership voting interest?

9 A He could have owned, you know, 100 percent of the
10 station, I mean, you know, hypothetically. But, we arrived
11 at the structure that we did and everybody felt very
12 comfortable with it, establishing first and foremost Rich
13 Ramirez' control and authority in operation of the station
14 throughout his significant ownership interest. And, then
15 there was an opportunity for additional minority ownership
16 as the station would evolve over the course of time.

17 Alternatives could have been done, but I think we
18 arrived at a proper structure.

19 Q And, when you say we arrived at the proper
20 structure, who are you referring to?

21 A Mr. Ramirez and myself discussed this particular
22 structure in some length at the onset of Astroline
23 Communications Company Limited Partnership.

24 Q Were Mr. Boling and Mr. Sostek involved in those
25 conversations?

1 A They obviously agreed to the ultimate creation of
2 the limited partnership, but I think this was a vehicle to
3 enhance minority ownership that Rich Ramirez and I felt
4 particularly strong about.

5 Q Is this a structure which was proposed during the
6 Memorial Day, 1984 meeting among yourself, Mr. Ramirez, Mr.
7 Boling and Mr. Sostek at the Meridian Hotel in Boston?

8 A I think we discussed it. I discussed it with Mr.
9 Ramirez in advance of that meeting. I had been in touch
10 with Mr. Ramirez prior to that and Mr. Ramirez who is, of
11 course, Hispanic and I'm African-American, realized the need
12 to try to enhance the level of minority ownership. That's
13 what this station was all about. That's what the distress
14 sale process was all about.

15 Q Mr. Hart, I don't want to cut you off, but my
16 question was, is this a structure which was adopted during
17 the meeting at the Meridian Hotel over Memorial Day weekend
18 in 1984?

19 A I believe that we discussed the structure at that
20 time. I think we -- it was shortly thereafter that we
21 prepared the documentation, so we either agreed to it at
22 that meeting or we agreed to it shortly thereafter. But,
23 Mr. Ramirez and I had discussed it prior to that meeting.

24 Q Now, going back to Shurberg 19, which is the
25 September 13, 1985 ownership report, which reported, among

1 other things, the arrival of new partners, that report
2 wasn't complete, was it?

3 A I'm sorry?

4 Q That report wasn't complete, was it? This is the
5 Shurberg 19, the September 13, 1985 ownership report.

6 A I don't know it to be incomplete.

7 Q Well, let me refer you to Shurberg 72, which is in
8 the red volume. We're back to the red volume.

9 A Yes, sir.

10 Q That's a letter from Mr. Bacon to you, dated
11 October 2, which is not quite three weeks after Mr.
12 Whitley's ownership report was filed, and this transmitted
13 to you the various agreements concerning employees of
14 Astroline, do you see that?

15 A Okay.

16 Q Mr. Bacon says, "It's my understanding the
17 enclosed agreements will be filed as exhibits to the
18 ownership report, filed with the FCC on September 13," do
19 you see that?

20 A Yes, sir.

21 Q So, again, Mr. Bacon, is it correct to interpret
22 this as Mr. Bacon trying to be careful to make sure that the
23 ownership reports filed with the Commission were accurate
24 and complete?

25 MR. TOPEL: Your Honor, I would object to the

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1 witness testifying about Mr. Bacon's state of mind.

2 MR. COLE: If he knows.

3 JUDGE FRYSIAK: Well, the original question was
4 whether the Exhibit 19 was incomplete.

5 MR. TOPEL: Right.

6 JUDGE FRYSIAK: And, that's responsive.

7 MR. TOPEL: I didn't think that last question --
8 well, I think you've ruled.

9 JUDGE FRYSIAK: You'll have a chance in cross-
10 examination to correct it.

11 THE WITNESS: Could you repeat the question,
12 please?

13 BY MR. COLE:

14 Q Shurberg 72, which is Mr. Bacon's letter, is it
15 accurate to conclude that this is another instance of Mr.
16 Bacon taking steps to insure that the reports which were
17 filed with the FCC concerning Astroline's ownership were
18 accurate and complete in all respects?

19 A That was the interest of Mr. Bacon, as well as Mr.
20 Whitley's, that the information was complete and that
21 apparently there were some documents, agreements, that were
22 supplemented, that the report was supplemented by some
23 agreements that may not have been filed. I don't even know
24 if those agreements were any good at the time the original
25 ownership report was filed. But, they were apparently

1 supplemented.

2 Q But, again, going back to your earlier testimony,
3 this is consistent with the separation of responsibilities?
4 That is, Mr. Bacon would work on the business end of things,
5 prepare the documents and provide them to Baker & Hostetler,
6 you, Mr. Whitley, whoever, at Baker & Hostetler, for
7 submission to the FCC, am I understanding that correctly?

8 A Certain documents Mr. Bacon would take the lead
9 on. Others, we at Baker & Hostetler would take the lead on.

10 Q And, go now, if you would, to blue volume Shurberg
11 20, which is a multi-page document, the first page of which
12 is a letter over your name, addressed to the Secretary of
13 the FCC, dated October 31, and the letter bears the received
14 stamp of the FCC for the same date. Is that your signature
15 on that letter?

16 A Yes, sir.

17 Q If you would care to review the attachments, am I
18 correct in understanding the purpose of this letter in
19 October of '85 was to transmit to the FCC the additional
20 agreements that had not been submitted with the September
21 ownership report?

22 A That is correct and I see here that some of those
23 agreements were in existence and apparently some of them
24 were not at the time, at least, of September 13 filing. So,
25 that may have been why the entire package had to be